

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

T.W.D. – Appeal Petition filed by Sri K.Ashok Kumar, Emp. in LIC of India, Nellore District, filed under Section 7 of Act 16 of 1993 against the proceedings, dated 5.12.2005 of the District Collector, Nellore – Appeal rejected – Orders – Issued.

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SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 68

Dated:19-6-2009  
Read the following:

- 1.Proceedings of the Collector, Nellore District Rc.No.C5/1506/2003, dated 5.12.2005.
- 2.Appeal Petition from Sri Kambam Ashok Kumar S/o Ramesh Occ: Employee in LIC., R/o Nellore District dated 30.12.05 before M(SW &TW), filed through his advocate.
- 3.Govt.Memo No. 34/CV.2/2006-1, dated 23.1.2006.
- 4.Letter from the District Collector, Nellore, No.Rc.C5(M) 1506/2003, dated 7.4.2006.
- 5.Letter No. 34/CV.2/2006, dated 14.8.2008.

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ORDER:

Sri Kambam Ashok Kumar S/o Ramesh, Occ: Employee in LIC. of India, R/o Nellore District, filed appeal petition under Section 7 of Act 16 of 1993 against Proceedings dated 5.12.2005 of the District Collector, Nellore, for cancellation of his ST Lambada Caste Certificate and submitted the following grounds:

1. The orders of Collector, is erroneous, arbitrary and devoid of merits.
2. The DLSC., failed to appreciate the documents filed by the appellant that he belongs to ST Lambada.
3. The DLSC. without consideration of documents produced by the appellant, on the other hand by relying report of RDO, Nellore, dated 19.7.2004, recommended for cancellation of his ST social status certificate.
4. The respondents without summoning any witnesses and without examining the case came to an erroneous conclusion.
5. The DLSC. committed grievous error in exercising its powers, without calling the records from the competent authority i.e., School Head Master, College Principal, Ward Counsellor, Village Secretary and without examining them on oath as independent witnesses.
6. The respondents failed to consider the records of his i.e. appellant father's School, community certificate and identity card issued by the Corporation. All documents shows that the father belongs Lambadi caste.
7. The respondents miserably failed to see that the RDO., and MRO., came to an erroneous conclusion by comparing the Surnames of the other persons and came to a conclusion that he belongs to Bondili caste, but not Lambadi ST. The said two reports were not served to the appellant.

2). The Govt. in Memo 3<sup>rd</sup> read above, requested the District Collector, Nellore to furnish parawise remarks and connected records of the case. The District Collector, Nellore has furnished his remarks and the connected records. The remarks of the District Collector, Nellore are:-

- (i) That the RDO, Nellore, enquired and reported that Smt.K.Lakshmi W/o K.Ramesh, mother of appellant is native of Nellore town and her father's name was D.Balaji Singh; that she belongs to Bondili caste; that in the year 1973 she married his neighbour Sri K.Ramesh, who is Lambadi by caste at Jonnawada, and worked as Driver in APSRTC in the year 1988-89, that he became mentally ill, in 1992 and left the family, that her husband's original place was Hubli in Karnataka State; that her father-in-law Sri K.Rusthum Singh descended from Karnataka to Nellore 70 years back; and that their caste is Lambadi. Further the appellant's Aunt Smt.M.A.Satya Prema, father's sister has deposed that their ancestors belongs to Karnataka State were eking their livelihood on Basket making, agricultural works, and that they are Lambadies, and she married Christian person.
  - (ii) That appellant did not produce any documentary evidence to the effect that he was accepted by Lambadi community and moreover he has not produced caste certificate of his father. The caste certificate issued by MRO., Nellore to the appellant was not based on proper enquiry. The appellant has attended enquiry before DLSC. and informed that his mother belong to OC (Bondili) and his father belongs to Lambadi (ST) caste and his grand father belongs to Pajput and his grand mother belongs to Lambadi by caste. Further the appellant has informed before DLSC. on 27.6.2005, and deposed that his father belongs to Lambada and he migrated from Madhya of Karnataka State, and his mother belongs to Bondili (OC) caste. That he married presuna Bai who also belongs to Bondili Caste.
  - (iii) That the MRO., Nellore has reported that he verified the caste details at CAM High School, Mulapet, Nellore and found that the surname of Kambam of the incumbent belongs to Bondili caste, and also informed that there are no Lambadi families in Nellore Town. Further he has also verified the old Birth and Death Registers maintained in Nellore Municipality that the surname of the persons i.e. Kambham found to be Bondili / Rajput caste.
- 3). The case was posted for personal hearing on 31.8.2007. The appellant and his counsel were absent. The case was posted to 17.9.2007. The counsel was present appellant absent. The case was again posted for hearing on 20.11.2007. The appellant and his counsel were present and submitted material papers and argued the case. Again the personal hearing was posted to 27.3.2008. On 27.3.2008 the appellant was absent and his counsel present. Finally the case was posted for hearing on 23.8.2008.
- 4). On careful examination of the grounds for appeal, orders of the District Collector, Nellore, enquiry reports, copies of documents furnished by the appellant, depositions of the appellant his mother etc., and other material on file it is found that:-
1. The appellant is claiming ST status as belonging to "Lambadi" community as an offspring of inter caste marriage between his father (Sri Ramesh) said to be of Lambadi community and his mother (Smt.Lakshmi) admittedly of Bondili (O.C) caste.

2. The appellant and his mother admitted that the appellant, Grand father Sri Kambham Rusthum Singh is said to be a Lambadi by community was a migrant to Nellore from Karnataka State (though there is difference in place of migration as deposed by the appellant as Mandya and Hubli as deposed by his mother).
3. As per the guidelines/instructions of Govt. of India, Ministry of Home Affairs on th ST status of offsprings of couples where one or both of the spouses is/are members of STs issued in Circular No. 39387/73-SCT.1, dated 21.5.1977, it is the recognition and acceptance by the Society of the children born out of a marriage between a member of Scheduled Tribe with an outsider, which is the main determining factor irrespective whether the Tribe is matriarchal or patriarchal. The final result will always depend on whether the child was accepted as a member of the ST or not. However, each individual case will have to be examined in the light of existing facts and circumstances in all such cases.
4. In support of his ST (Lambadi) status claim, the appellant produced the community certificate of his father (No.F.Dis.12712/87, dated 10.8.87) issued by the then MRO, Nellore and Record sheet issued by the Head Master, P.S. Elementary School, Vedayapalem, Nellore in both of which his father's caste was written/certified as Lambadi. On careful examination of these two documents it is found that in the Record sheet under the column name of the school it is written as SR Vidyalayam, Vedayapalem. But the record sheet was signed by the Head Master, P.S. Ele.School, Vedayapalem, Nellore. There is no evidence to show that SR Vidyalayam, Vedayapalem, and the PS. Ele.School, are one and the same. In such a case, the genuine of the record sheet is clearly doubtful. Then, coming to community certificate, it was issued by the then MRO, Nellore simply based on the caste entry in the Record sheet (ie., Admn.No.110) issued by the Head Master, PS Ele.School, Vedyapalem but not after conducting due enquiry on the caste status of the appellant's father. As per the deposition of the appellant and his mother the appelant's grant father migrated to Nellore from Karnataka State, wherein Lambadi community is declared as a Scheduled Caste and it, still, is in S.Cs list only. There is also no evidence to show that his parental grand mother belongs to Lambadi community. Therefore, the veracity of the community certificate of appellant's father visa vis his claim as belonging to Lambadi ST community of A.P. is not correct as the appellant's father is the son of a migrant from Karnataka State where Lambadi is SC, and the then MRO, Nellore has not followed Govt. of India guidelines in Lr.No.BC-16014/1/82-SC &BCD-1, dted 6.8.1984, that the SC/ST person on migration from the State of his origin to another State will not lose his status as SC/ST but he will entitled to the concessions/benefits admissible to the SCs/STs from the State of his origin and not from the State where he has migrated. As per these guidelies, the appellant's grand father or his father could be trated as SC and even then they are not entitled for the reservation benefits under SCs in A.P. State. Even if it is considered that the appellant's father and the appellant are not migrants from Karnataka State but appellant's grand father only is the migrant, there is no evidence to show that the appellant's grand father belongs to "Lambadi" community. The only evidence is the record sheet of a school in A.P. after migration from Karnataka State, where the caste of apellant's father was recorded as "Lambadi". Such record of caste in schools in only based on the self declaration of parents/guardian as such at the

time of admission of their children into schools but not based on any prior enquiry because there is no provision or mechanism for verification/enquiry on genuiness of such declarations about their caste at the time of admission in to Schools. Therefore there is no conclusive evidence to show that the appellant belong to Lambadi community.

5. The Appellant claim as belonging to ST and the following evidences produced:
- i. Caste Certificate 347/94, dated 5.10.94 issued by the then MRO, Nellore.
  - ii. Caste Certificate 212/98 dated 6.4.98 issued by the then MRO, Nellore.
  - iii. TC No. 123468, dated 9.6.90, issued by the Head Master, D.C.R. ZP Boys High School, Dargamitta, Nellore. Where the appellant's caste is written as "Lambadi"
  - iv. TC No. 1694, dated 12.7.93 issued Principal , Sri Venugopal Swamy, JR.College of Arts and Sceience, Nellore where his caste is written as Lambadi ST.
  - v. Staudy certificate issued by the Head Master, Municipal Primary School, DNT Colony, Nellore.

Caste entries in Schools cannot be taken as conclusive/reliable evidence and caste certificate issued even by the competent authorities solely based on the caste in school records without conducting proper enquiries cannot be treated as genuine or valid. In the case of the appellant, the then MRO, had issued caste certificates based on School records only. The MRO, has also not considered the status of the appellant as an offspring of inter caste married couple in the light of Govt.of India guidelines which stipulates that acceptance and recognition of the appellant by the tribal community to which he claims to belong. There is no evidence of such recognition or acceptance of the appellant by Lambadi community people. Further, the marriage of the appellant with a woman of Bondili caste i.e., the caste of his mother also supports that he is being treated or continues to be in Bondili caste but not in Lambadi community.

Further based on the ethnographic data available on the Lambadi community of A.P., the appellant's surname "Kambham" is not found among Lambadi community. Even in the affidavit of appeal the appellant has not mentioned about the ethnographic characters of his said to be Lambadi community but simply states that the respondents have failed to enquire about the appellant's anthropological and ethnological traits.

- 5) Therefore in view of the above, and in exercise of the powers conferred under Section 7 of the Act 16 of 1993 and Rules made thereunder, the appeal petition filed by Sri Kambham Ashok Kumar, R/o Nellore District is hereby rejected, upholding the proceedings RC.No. C5/1506/2003, dated 5.12.2005 of the District Collector, Nellore. The stay granted in reference 3<sup>rd</sup> read above are hereby vacated.

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6) The records received from the District Collector, Nellore, in reference 4<sup>th</sup> read above are returned herewith to him, and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,  
PRINCIPAL SECRETARY TO GOVT.

To

The District Collector, Nellore (WE) Original  
Record file bearing No. Rc C5 (M) 1506/2003,  
Containing pages 127 cf.

Sri Kambam Ashok Kumar S/o Sri Ramesh,  
Venkata Reddy Nagar, Vedayapalem(post),  
Nellore District -4..

M/s T.C.Krishnan, Advocate,  
H.No.16-2-740/30, 1<sup>st</sup> floor, Kalyan Nagar,  
Gaddiannaram, Dilsukhnagar,  
Hyderabad -60.

Copy to:

The PS to M(TW & RIAD)/ PS to Pri.Secretary (TW)

The Director of Tribal Welfare, Hyderabad.

The Senior Divisional Officer,

LIC of India, Divisional Office, Nellore District.

Sf./Sc.

//Forwarded::By Order//

SECTION OFFICER.